

## CALIFORNIA STATE BOARD OF EQUALIZATION

## APPEALS DIVISION PETITION FOR REHEARING SUMMARY

In the Matter of the Petitions for Redetermination )

Under the Sales and Use Tax Law of: )

JOSE AGUSTIN FERNANDEZ, )

dba J &amp; S Auto Sales )

Petitioner )

Account Number: SR AR 97-911585

Case IDs 549411 and 553265

Ventura, Ventura County

Type of Business: Used car dealer

Audit period: 1/1/06 – 05/30/10

ItemDisputed Amounts

Unreported sales based on Report of Sale (ROS) forms

\$196,302

Negligence penalty

\$ 1,508

5494115532651/1/06 – 6/30/077/1/07 – 5/30/10TaxPenaltyTaxPenalty

As determined

\$34,942.02

\$3,494.21

\$91,536.67

\$9,153.67

Pre-D&amp;R adjustments

+32,353.78

+3,235.36

00.00

00.00

Post-D&amp;R adjustments

-22,581.20

-2,258.10

-33,198.86

-3,319.88

Post-Board hearing adjustments

- 39,841.37

- 3,984.15

-48,133.46

- 4,813.35

Proposed redetermination

\$ 4,873.23

\$ 487.32

\$10,204.35

\$1,020.44

Less concurred

- 225.69

00.00

- 409.12

00.00

Balance, protested

\$ 4,647.54\$ 487.32\$ 9,795.23\$1,020.44

Proposed tax redetermination

\$4,873.23

\$10,204.35

Interest through 12/31/13

2,302.43

3,701.23

Negligence penalty

487.321,020.44

Total tax, interest, and penalty

\$7,662.98

\$14,926.02

Payments

- 1,000.00

0.00

Balance Due

\$6,662.98\$14,926.02Monthly interest beginning 01/01/14 \$ 12.77\$ 51.02

The Board heard this matter on July 17, 2013, and ordered that the audited selling prices for vehicles be reduced to \$6,187 for 40 percent of the vehicles, \$3,500 for 40 percent of the vehicles, and \$1,000 for 20 percent of the vehicles. Petitioner filed a timely petition for rehearing.

**UNRESOLVED ISSUE**

**Issue:** Whether the petition for rehearing should be granted. We recommend that it be denied.

1 In the petition for rehearing, petitioner requests that the Board subpoena the records of the  
2 Department of Motor Vehicles (DMV) to request records that he states were not provided by two  
3 inspectors from DMV, a Mr. and Mrs. Crosby. Although the petition for rehearing does not clearly  
4 express petitioner's remaining concerns, petitioner did mention Mr. and Mrs. Crosby at the hearing.  
5 He stated during the hearing that he returned numerous report of sale (ROS) forms to Mr. Crosby when  
6 he was a DMV inspector. Petitioner stated that Mr. Crosby has since been promoted to an area director  
7 of DMV, and that, on a later occasion, petitioner returned numerous ROS forms to Mrs. Crosby.  
8 Petitioner described difficulty getting documentation from Mr. and Mrs. Crosby regarding the number  
9 of ROS forms returned to DMV. He argued that, if Mr. and Mrs. Crosby were required to provide  
10 complete detail regarding ROS forms returned, then the number returned would show that there were  
11 no missing ROS forms that represented sales of vehicles.

12 Petitioner has provided no new arguments or evidence with his petition for rehearing, and the  
13 Board considered these arguments in reaching its conclusion after the hearing. We conclude that the  
14 Board correctly decided this matter, and petitioner has not presented a basis for rehearing. We thus  
15 recommend that the petition for rehearing be denied.

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17 Summary prepared by Deborah A. Cumins, Business Taxes Specialist III  
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